

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SAMUEL VALUTHUNDIL and
ELIZABETH SAMUEL,

Plaintiffs,

ORDER

-against-

CV 11-4642 (ADS) (ETB)

ARBES PVT. LTD d/b/a TOOLTRONICS,
ARBES TOOLS PVT, LTD. d/b/a TOOLTRONICS,

Defendant.

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The conference today is predicated on the correspondence of plaintiffs' counsel, Joseph Monaco, P.C., dated September 14, 2012, reporting that the defendant, Arbes Tools PVT, Ltd. ("Arbes Tools"), manufacturer of the allegedly defective gelatin capsule machinery in this product liability action, has failed to comply with automatic discovery, as ordered on May 3, 2012, and further, that said defendant has failed to comply with interrogatories and document demands served by plaintiffs on May 30, 2012 and due, pursuant to the same Order, no later than July 4, 2012.

It is further noted that the defendant, Arbes Tools, has had no communication with plaintiffs since the initial conference on May 3, 2012. In addition to not appearing at today's conference, defendant's counsel, Andrew P. Saulitis ("Saulitis"), has failed to submit a response to the plaintiffs' correspondence dated September 14, 2012, seeking compliance with the May 3, 2012 Order, and has failed to respond to plaintiffs' counsel's email sent as a follow-up to his demands. I conclude from the above that defendant and its counsel are stonewalling the orders of this Court.

As a result, Arbes Tools is deemed to have waived any right to object to any pending interrogatory request and/or document request (with the exception of any privileged material for which a privilege log shall be filed within ten (10) days). Arbes Tools shall comply with the Order of this Court dated May 3, 2012, and the pending interrogatory demands and document requests, within fourteen (14) days. The failure to do so will expose the defendant, as well as its counsel, Saulitis, to sanctions, including preclusion, monetary costs and striking the defendant's Answer in this action. In addition, the right of Arbes Tools to engage in any discovery is hereby suspended pending the further order of this Court. Lastly, plaintiffs and the third-party defendant, employer Tishcon Corp., doing business as Gel-Tec, are authorized to seek costs, including reasonable attorney's fees, against Arbes Tools and/or Saulitis based on the latter's failure to appear in court today, and, as to plaintiffs, with respect to the failure to timely comply with automatic disclosures and outstanding interrogatory requests and document demands. See Order dated May 3, 2012. Any request for such sanctions shall be initiated within fourteen (14) days of this Order or it will be deemed waived.

SO ORDERED:

Dated: Central Islip, New York
October 2, 2012

/s/ E. Thomas Boyle
E. THOMAS BOYLE
United States Magistrate Judge